IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO: 1559 of 1998

Between:

P.Vidyasagar, s/o.Venkat Ram, aged about 36 years,

R/o.Pedda Mupparam, Narasimhulapeta Mandal,

Warangal District.

..... PETITIONER

AND

1. The Industrial Tribunal-cum-Labour Court, Waangal,

rep.by its Presiding Officer.

2. The Depot Manager, APSRTC, Khammam Depot,

Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of writ of Certiorari and after calling the records from the 1st respondent and quash the award in I.D.No.206 of 1993, dated 31-05-1996, and consequently direct the 2nd respondent to reinstate the petitioner with back wages, continuity of service, and with all other attendant benefits.

Counsel for the Petitioner: MR.V.VISWANATHAM

Counsel for the Respondent No.1: G.P. FOR LABOUR

Counsel for the Respondent No.2: S.C. FOR APSRTC

The Court made the following:

ORDER:

This writ petition is filed by the Workman/petitioner being aggrieved by the award passed in I.D.No.206 of 1993 dated 31-05-1996.

2. The services of the petitioner were terminated after conducting an enquiry into the charges framed against him. According to the charges, the petitioner, by producing a fake Caste Certificate showing himself as belonging to Scheduled Caste, obtained employment in APSRTC. It seems, on some information being furnished to the APSRTC, the respondent No.2 herein, an enquiry was conducted as per Regulations of the Corporation and the petitioner has been removed from service. Aggrieved by the same, the petitioner filed I.D.No.206 of 1993 before the Industrial Tribunal-cum-Labour Court at Warangal. The Labour Court, Warangal, also found that the findings of the enquiry officer and the disciplinary authority have categorically proved that the petitioner does not belong to Scheduled Caste Community, and therefore, refused to interfere into the order of removal and to grant any relief. Thus, the ID was dismissed. Aggrieved by the same, the present writ petition has been filed.

3. At the threshold, the learned counsel for the petitioner contended that the whole exercise undertaken by the respondent-Management is without jurisdiction, and as such, the removal of the petitioner is arbitrary and illegal. Admittedly, no enquiry as contemplated under the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993, and Rules, 1997 (for brevity 'the Act') has been conducted. On some information being furnished to it, the APSRTC has taken up the matter on its own and concluded that the petitioner does not belong to the Scheduled Caste Community and as such the certificate produced by him is a fake one, and thus, the petitioner obtained employment by dubious methods.

4. The question as to who is the competent authority for conducting enquiry in so far as the genuineness of the Caste Certificate is concerned, is no more *res-integra* and it was already decided by this Court in W.P.No.24929 of 2003 and W.P.No.3033 of 2002 dated 04-08-2004, that unless and until the competent authority takes up the enquiry and declares the Caste Certificate obtained by the particular individual is fake or bogus, no action can be taken by the employer.

5. It is an admitted fact that the Caste Certificate furnished by the petitioner is not cancelled by any competent authority under the Act, 1993. I am of the considered opinion that it is not open for the respondent-Management to assume jurisdiction of an authority under the Act and conduct some enquiry and dispense with the services of the petitioner. If the respondent-Management wants to conduct any enquiry, they may approach the competent authority and ask them to conduct an enquiry, and if in the said enquiry conducted by the competent authority, the certificate obtained by the petitioner is proved either a fake one or a false one, they may proceed according to law.

6. In view of the above, the award passed by the Labour Court is set aside. Likewise, the removal order passed by the respondent does not survive the scrutiny of law and it is non-est in the eye of law. Therefore, the respondent-Management is directed to reinstate the petitioner with all consequential benefits including back wages and attendant benefits.

7. The writ petition is accordingly allowed. No order as to costs.

C.V.RAMULU, J

28th June, 2005

SKM

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, The Acting Chief Justice on this

Tuesday the 28th day of June, Two thousand and Four.

REGISTRAR

Copy to:

1. The Presiding Officer, Industrial Tribunal-cum-Labour Court, Warangal,

2. The Depot Manager, APSRTC, Khammam Depot,

Khammam District.

3. Two C.Cs. to the G.P. for Labour, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

4 Two C.D. Copies.